

REAL ESTATE DIVISION,
DEPARTMENT OF BUSINESS AND INDUSTRY,
STATE OF NEVADA

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GAIL J. ANDERSON, Administrator,
REAL ESTATE DIVISION,
DEPARTMENT OF BUSINESS AND
INDUSTRY, STATE OF NEVADA,

Petitioner,

vs.

STEPHEN LAVINGTON,

Respondent.

**STIPULATION FOR SETTLEMENT
OF DISCIPLINARY ACTION
PURSUANT TO NAC 645C.610(3)**

Case No. AP10.021.S

**STIPULATION FOR SETTLEMENT OF DISCIPLINARY
ACTION PURSUANT TO NAC 645C.610(3)**

1. **PARTIES.** This Stipulation is entered into by and between the Petitioner, the REAL ESTATE DIVISION, DEPARTMENT OF BUSINESS AND INDUSTRY, STATE OF NEVADA (the "Division"); by and through its Administrator, GAIL J. ANDERSON (the "Administrator"), and the Respondent, **RICHARD CARLSON** (whether one or more hereinafter the "Respondent"), who at relevant times was licensed by the State of Nevada, license number A.0006091-CR. This Stipulation is entered into upon mutual agreement with the decision of the Appraisal Advisory Review Committee (the "AARC"), which was reached at its informal conference held on February 22, 2011, in LAS VEGAS, NEVADA. Members of the AARC present were Denny Baughman, Robert Stefan, and Debbie Huber, CHAIR.

2. **AUTHORITY OF THE APPRAISAL ADVISORY REVIEW COMMITTEE.** The Appraisal Advisory Review Committee has authority to enter into this Stipulation with the Respondent pursuant to NAC 645C.610(3).

3. **FINDINGS.** The AARC has found that the Respondent, while licensed, certified or registered as a Nevada Appraiser, committed violations of chapter 645C of Nevada Revised Statutes and Nevada Administrative Code and/or USPAP. A description of the conduct in which

1 these violations were committed is set forth in specificity in the Summary of Facts which is
2 attached hereto as EXHIBIT "A". The Administrator has the authority, pursuant to NAC
3 645C.600(2), to establish an advisory committee in an attempt to review this matter informally
4 and recommend a resolution.

5 4. **NO ADMISSION OF GUILT.** The Respondent does not admit or deny the findings of
6 the AARC, choosing to remain silent, but does agree that the findings establish a prima facie case
7 for the discipline set forth below and stipulates, subject to the limitations and conditions set forth
8 below, that the Division shall not be required to provide further evidence of such allegations.

9 5. **SETTLEMENT FOR DISCIPLINARY ACTION.** As set forth above, the AARC is
10 authorized under NAC 645C.610 to impose an administrative fine, upon final approval by the
11 Commission. The Division also has the option to file a complaint with the Nevada Commission of
12 Appraisers of Real Estate (the "Commission"). The Commission has the authority pursuant to NRS
13 645C.460(2)(d) to impose a fine pf up to \$10,000 for each violation alleged or to suspend or revoke
14 the Respondent's certificate, license or registration card. The parties, however, desire to
15 compromise and settle the instant controversy, without a hearing, upon the following terms and
16 conditions:

17 a. **RESPONDENT** will complete not less than 14 hours of education in Sales Comparison
18 and Cost Approach courses. Course hours may not be used to satisfy the continuing education
19 requirements. The courses must be taken within six (6) months.

20 b. **Public Record.** **RESPONDENT** and the **DIVISION** agree that by entering into this
21 Stipulation, the **DIVISION** does not concede any defense or mitigation **RESPONDENT** may assert,
22 and the parties agree that the **DIVISION** will not publicize the instant disciplinary matter, except as
23 set forth below, and that once this Stipulation is approved and fully performed, the **DIVISION** will
24 close its file in this matter. **RESPONDENT** understands that the public records law may require the
25 **DIVISION** to make available for inspection this Stipulation and related documents. **RESPONDENT**
26 also understands that the **DIVISION** may share the content of this Stipulation and related
27 documents with any governmental or professional organization or member of the public;

28 c. **Newsletter.** **RESPONDENT** and the **DIVISION** agree that the **DIVISION**, at its
discretion, may publish in the newsletter an anonymous summary of the alleged offenses of

RESPONDENT and the terms of this Stipulation, with the understanding of all parties that such publication will not specifically name RESPONDENT or make reference to any other party; RESPONDENT will be referred to only as a licensee in the State of Nevada. It is further understood by the parties that this publication is for educational purposes only and to advise other licensees of the alleged violation(s) and that disciplinary action has been taken by the DIVISION;

d. Failure to perform; hearing on complaint.

RESPONDENT agrees that if the required education is not completed in the time allowed above, RESPONDENT'S license will be automatically suspended until such time as the fine is paid and continuing education requirement satisfied. The DIVISION may, at its option, rescind this Stipulation and proceed with filing a Complaint before the Commission. Further, recovery actions for the administrative fines may be instituted by the DIVISION;

e. No other remedies. Assuming Respondent complies with the terms of this stipulation, the Division agrees not to pursue any other or greater remedies or fines in connection with the conduct referenced in above unless stipulation is rescinded;

f. Waiver by Respondent. RESPONDENT agrees and understands that by entering into this Stipulation, RESPONDENT is waiving his/her right to a hearing at which RESPONDENT may present evidence in his/her defense and to be represented by counsel, to judicial review of any adverse decision by the Commission, and to present his/her defense to a Commission which has had no prior familiarity with the instant matter. The Commission members who review this matter for approval of this Stipulation may be the same members who ultimately hear the DIVISION'S complaint if this Stipulation is either not approved by the Commission or is not timely performed by RESPONDENT; and

g. Attorney fees and other costs. Each party shall bear its own attorney's fees and other costs not specifically set forth in this Stipulation.

6. RELEASE. In consideration of execution of this Stipulation, the Respondent for himself/herself or his/her heirs, executors, administrators, successors, and assigns, hereby release, remiss, and forever discharge the State of Nevada, the Department of Business and Industry of the State of Nevada, the Division, and each of their members, agents, and employees in their individual and representative capacities, from any and all manner of actions, causes of

1 action, suits, debts, judgments, executions, claims, and demands whatsoever, known and
2 unknown, in law or equity, that the Respondents ever had, now has, may have, or claims to have
3 against any or all of the persons or entities named in this section, arising out of or by reason of
4 the Division's investigation, this disciplinary action, or any other matter relating thereto.

5 7. **INDEMNIFICATION.** Respondent hereby indemnifies and holds harmless the State
6 of Nevada, the Department of Business and Industry of the State of Nevada, the Division, and
7 each of their members, agents, and employees in their individual and representative capacities
8 against any and all claims, suits, and actions brought against said persons and/or entities by
9 reason of the investigation of the allegations in the Complaint, this disciplinary action and all
10 other matters relating thereto, and against any and all expenses, damages, and costs, including
11 court costs and attorney fees, which may be sustained by the persons and/or entities named in
12 this section as a result of said claims, suits, and actions.

13 8. **COMMISSION APPROVAL OF STIPULATION NECESSARY.**
14 Once executed, this Stipulation will be filed with the Commission and will be put on the agenda
15 for approval at its meeting, which by Nevada law is a public meeting. At that time, the DIVISION
16 will recommend to the Commission approval of the Stipulation. RESPONDENT acknowledges and
17 agrees that the Commission may approve this Stipulation, reject it, or suggest different terms
18 which must be communicated to RESPONDENT and accepted or rejected by RESPONDENT before
19 any such amendment shall become effective.

20 9. **SETTLEMENT DISCUSSIONS NOT EVIDENCE.** Any statements made during the
21 discussions leading up to this Stipulation may not be discussed or introduced into evidence at any
22 hearing. However, evidence of the Respondent's failure to abide by the terms of any Stipulation
23 entered into with the Division, may be introduced at a hearing and used against the Respondent.

24 10. **STIPULATION IS NOT A BAR TO FUTURE PROCEEDINGS.** This Stipulation shall not
25 constitute an estoppel, merger or bar to any administrative or civil proceeding by the Division
26 with respect to any future matters or other matters that were not consideration for this
27 Stipulation.

28 SO STIPULATED.

Dated: _____

REAL ESTATE DIVISION, Department of
Business and Industry, State of Nevada

By: Gail Anderson
GAIL J. ANDERSON,
Administrator

Dated: April 7, 2011

Steve Lavinton
STEPHEN LAVINGTON
Respondent

ORDER

The foregoing Stipulation was approved by a vote of the Nevada Commission of Appraisers of Real Estate on June 7, 2011.

DATED this 7th day of June, 2011.

NEVADA COMMISSION OF APPRAISERS OF
REAL ESTATE

Michael R. Christie
Commissioner

EXHIBIT A

State of Nevada
Department of Business & Industry
Real Estate Division
Appraisal Advisory Review Committee
2501 E. Sahara Avenue, Suite 102
Las Vegas, Nevada 89104

COMMITTEE REPORT

Date of AARC meeting: February 22, 2011
Case No. AP10.021.S
Respondent: Stephen Lavington
License No. A.0006091-CR
Appraisal Officer: Brenda Kindred-Kipling
Committee members: Debbie Huber, Chair, Denny Baughman,
Robert Steffan

Findings: The Committee determined that in the case of the appraisal of a single family residence located at 3636 Rainy River Rd., Las Vegas, NV dated January 18, 2009 and January 20, 2009, Respondent violated the Uniform Standards of Professional Appraisal Practice in that he failed to adequately analyze and report that five of the comparable sales were bank owned properties, failed to complete the cost approach correctly, and failed to keep a complete workfile.

Violations:

ETHICS RULE

Record Keeping:

An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal consulting assignment. The workfile must include: all other data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with the Rule and all other applicable Standards, or references to the location of such other documentation.

Standards Rule 1-1

In developing a real property appraisal, an appraiser must:

- (a) be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal.
- (b) Not commit a substantial error of omission or commission that significantly affects an appraisal; and
- (c) Not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results.

Standards Rule 1-2

In developing a real property appraisal, an appraiser must:

(d) identify the effective date of the appraiser's opinions and conclusions.

Standards Rule 1-4

(a) When a sales comparison approach is applicable, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion.

(b) When a cost approach is necessary for credible assignment results, an appraiser must:

(i) develop an opinion of site value by an appropriate appraisal methods or techniques;

Standards Rule 2-1(a)

Each written or oral real property appraisal report must:

(a) clearly and accurately set forth the appraisal in a manner which will not be misleading;

(b) Contain sufficient information to enable the intended users of the appraisal to understand the report properly;

Standards Rule 2-2(b) (vi)

The contents of a summary appraisal report must be consistent with the intended use of the appraisal and, at a minimum:

(vi) state the effective date of the appraisal and the date of the report;

Committee recommendation:

The Committee recommended that RESPONDENT complete not less than 14 hours of education in Sales Comparison and Cost Approach courses. Course hours may not be used to satisfy the continuing education requirements. Courses must be taken within six months.

Respondent agreed.

This report is hereby submitted on this the _____ day of February 22, 2011.

Appraisal Advisory Review Committee


Debbie Huber, Chair
